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Counsel for Defendants

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

CORVALLIS HOSPITALITY, LLC, an  
Oregon limited liability company,

Plaintiff,

v.

WILMINGTON TRUST, NATIONAL  
ASSOCIATION, as TRUSTEE FOR THE  
BENEFIT OF THE HOLDERS OF LCCM  
2017-LC26 MORTGAGE TRUST  
COMMERCIAL MORTGAGE PASS-  
THROUGH CERTIFICATES, SERIES 2017-  
LC26; MIDLAND LOAN SERVICES, INC., a  
Delaware corporation; and BEACON  
DEFAULT MANAGEMENT, INC., a  
California corporation,

Defendants.

Case No. 6:22-cv-0024

**NOTICE OF REMOVAL OF  
CIVIL ACTION**

**PURSUANT TO 28 U.S.C. §§ 1332,  
1441, AND 1446 (Benton County Circuit  
Court Case No. 21CV47537)**

**TO: THE JUDGES AND CLERK OF THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF OREGON, EUGENE DIVISION:**

1- NOTICE OF REMOVAL OF CIVIL ACTION

Pursuant to 28 U.S.C. § 1332, 1441, and 1446, defendant Wilmington Trust, National Association, as Trustee, for the benefit of the holders of LCCM 2017-LC26 Mortgage Trust Commercial Mortgage Pass-Through Certificates, Series 2017-LC26 (“**Wilmington**”), Midland Loan Services, a division of PNC Bank, National Association (“**Midland**”), Beacon Default Management, Inc. (“**Beacon**”) (Wilmington, Midland and Beacon are collectively referred to as “**Defendants**”) hereby file this notice of removal of civil action, removing the above-captioned action from the Circuit Court of the State of Oregon for the County of Benton, in which it is pending, to the United States District Court for the District of Oregon. The grounds for removal are as follows:

**THIS NOTICE OF REMOVAL IS TIMELY**

1. On December 14, 2021, plaintiff Corvallis Hospitality, LLC (“**Corvallis**”) initiated this action by filing a complaint (the “**Complaint**”) in the Circuit Court of the State of Oregon for the County of Benton as Case No. 21CV47537 (the “**State Court Action**”).

2. Defendants accepted service of the summons and Complaint on or about December 21, 2021.

3. Defendants are filing this notice of removal within 30 days of the date of service of the Complaint, which was the initial pleading served on Defendants setting forth Corvallis’ claims for relief. Removal is therefore timely under 28 U.S.C. § 1446(b).

4. Defendants are the only defendants named in the Complaint. Each of the Defendants join in this notice of removal. *See Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1193 n.1 (9th Cir. 1988).

5. A copy of the summons, Complaint, the motion for temporary and preliminary injunctive relief and all other items appearing in the docket of the State Court Action are attached to this notice as Exhibit A. A copy of the docket for the state court action is attached to this notice as Exhibit B.

6. No previous requests have been made for the relief requested.

2- NOTICE OF REMOVAL OF CIVIL ACTION

### **DIVERSITY JURISDICTION EXISTS**

7. This action is one over which this Court has jurisdiction pursuant to 28 U.S.C. § 1332 based on diversity of citizenship and amount in controversy.

8. At the time Corvallis commenced the State Court Action and at the time of the filing of this notice of removal, Wilmington was and is a national banking association with its principal place of business in Wilmington, Delaware, acting in its capacity as the trustee of the referenced trust. At those times, Midland was and is a division of PNC Bank, National Association, a national banking association, with its principal place of business in Pittsburgh, Pennsylvania, acting in its capacity as the special servicer for the credit facility at issue in the Complaint. And at those times, Beacon was and is a California corporation with its principal place of business in Los Angeles, California, acting as a successor trustee for purposes of executing the non-judicial foreclosure.

9. At the time Corvallis commenced this action and at the time of the filing of this notice of removal, Corvallis is and was an Oregon limited liability company with its principal place of business in Spokane, Washington. Because Corvallis is a limited liability company, and not a corporation, for purposes of determining diversity of citizenship, the Court must look to the citizenship of each of the members of Corvallis. *C.T. Carden v. Arkoma Associates*, 494 U.S. 185, 189 (1990). On information and belief, Corvallis has five members, including (a) William Lawson and Christopher Ashenbrener, both of whom appear to reside in Spokane, Washington, (b) Vern and Donna McDonald, who appear to reside in Corvallis, Oregon, (c) Jackson Cooper, Inc., an Oregon corporation with its principal place of business in Donnelly, Idaho, and (d) Corvallis Hospitality Manager, LLC, an Oregon limited liability company with its principal place of business in Spokane, Washington. Corvallis Hospitality Manager, LLC has the same members as Corvallis.

10. Upon information and belief, at the time Corvallis commenced the State Court Action and at the time of the filing of this notice of removal, there was complete diversity of

### **3- NOTICE OF REMOVAL OF CIVIL ACTION**

citizenship between Plaintiff Corvallis and Defendants.

11. In its Complaint, Corvallis asserts a claim of \$570,794.73, as well as entitlement to other amounts and relief. Thus, the amount in controversy exceeds \$75,000, exclusive of interest and costs.

### **FEDERAL QUESTION JURISDICTION EXISTS**

12. The State Court Action is also removable to this Court pursuant to 28 U.S.C. § 1441(a) as Corvallis' claims necessarily raise a federal question arising under the laws of the United States. Specifically, Defendants will contend the claims advanced by Corvallis in the Complaint are preempted by federal law, including the National Bank Act (*see, e.g.*, 12 U.S.C. § 25b(b)(1)(B)) and regulations and bulletins issued by the Office of Comptroller of the Currency (*see, e.g.*, OCC Bulletin 2020-62, June 17, 2020: "While the Office of the Comptroller of the Currency (OCC) recognizes that a wide range of stakeholders, including state and local governments, have an important role to play in the country's COVID-19 response, the agency reminds stakeholders that banks are governed primarily by uniform federal standards.").

13. As referenced in the Complaint at Paragraph 29, Defendants assert, among other defenses, that they are exempt from the Oregon COVID relief statute, referenced as HB 4204, at the center of the State Court Action. Defendants' claims of exemption are based, in part, on federal preemption.

14. Accordingly, this matter presents a federal question and removal is appropriate under 28 U.S.C. § 1441(a).

### **REMOVAL TO THIS COURT IS APPROPRIATE**

15. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, removal of the State Court Action to this Court is appropriate.

16. Pursuant to 28 U.S.C. §§ 1441(a) and 1446(b), removal to this Court is appropriate as the district and division embracing the place where the state court action is pending.

#### **4- NOTICE OF REMOVAL OF CIVIL ACTION**

17. As required by 28 U.S.C. § 1446(d), after filing of this notice of removal, Defendants will (a) promptly provide written notice of the filing of this notice to Corvallis and (b) file a true and correct copy of this notice with the clerk of the Circuit Court for Benton County, Oregon.

DATED: January 5, 2022.

**PERKINS COIE LLP**

By: /s/ Douglas R. Pahl

Douglas R. Pahl, OSB No. 950476

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Telephone: 503.727.2000

Counsel for Defendants

5- NOTICE OF REMOVAL OF CIVIL ACTION

CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2022, I served the NOTICE OF REMOVAL on the following:

To be sent by the following indicated method or methods, on the date set forth below:

Tara J. Schleicher  
Foster Garvey PC  
Eleventh Floor  
121 SW Morrison Street  
Email: tara.schleicher@foster.com  
Attorney for Plaintiffs

\_\_\_\_\_ by CM/ECF Filing System

  X   by Email

  X   by Mail

\_\_\_\_\_ by Hand Delivery

DATED: January 5, 2022.

PERKINS COIE LLP

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